

The Practice of Changing the Status of Change of Waqf Property in the Islamic Social Economic View

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Abstract

The purpose of this study is to reveal and analyze the practice of changing the exchange status of waqf assets in the view of the Islamic social economy. This type of research is included in qualitative research, which is derived from interviews and data observation. The source of this research data consists of primary data sources, namely researchers directly conduct interviews with the parties concerned in the process of exchanging waqf property at the At-Taqwa mosque, researchers also use secondary data sources, namely books, articles, and other reference materials. The results of the study explained that in the case of exchanging waqf property at Masjid At-Taqwa by Government Regulation Number 28 of 1977 and Law Number 41 of 2004. As for the aspect of Islamic Law, in the opinion of Imam Hanafi, if the waqf property can no longer provide benefits, it can be exchanged or replaced. On the contrary, according to the Shafi'iyah and Maliki Schools, it forbids all forms of exchange and replacement of waqf property under any circumstances. And according to Hanafiyah any form of exchange or replacement of all waqf objects depends on the power of the wakif at the time the pledge is pronounced by the wakif. The originality/novelty of this study offers originality by examining how changes in the status of waqf assets can affect people's welfare, both in terms of economics and society. In Islam, waqf is not only seen as charity but also as an economic instrument that can empower the community. Thus, a change in the status of waqf assets, for example from waqf land to commercial property, can have a significant impact on local economic empowerment.

Keywords: *Changes in Waqf Status, Waqf Property, Islamic Socio-Economics, Waqf Management, Economic Impact of Waqf.*

Introduction

The practice of changing the status of waqf assets is one of the important aspects of Islamic economics that reflects social and economic dynamics in society. Waqf, as a form of charity, has the goal of providing sustainable benefits for the people. However, in the face of the challenges of the times and the needs of a developing society, there is often a need to change the status or utilization of waqf assets (Kelkusa et al., 2023).

From the socio-economic perspective of Islam, this change must be made by paying attention to Sharia principles, social justice, and general welfare. Maintaining the benefits of waqf so that it remains optimal and relevant to the needs of the times is the key to dynamic waqf management. Thus, the change in the status of waqf assets is not just an adaptation effort, but also a manifestation of social responsibility and trust for the empowerment of the people (Amini, et al., 2024).

Although the change in the status of waqf assets in the Islamic socio-economic view has great potential to provide broader and relevant benefits to society, several problems or gaps need to be considered:

- **Lack of Understanding and Knowledge:** Many waqf managers and the general public still lack understanding of the concept and mechanism of changing the status of waqf assets following Sharia principles. This can result in uncertainty in the implementation of valid changes and accordance with Islamic law (Nur et al., 2023).

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- **Limitations of Regulations and Policies:** Regulations and policies related to changes in the status of waqf assets are often still not comprehensive and do not always support the flexibility required in the management of waqf. This can hinder the adaptation of waqf assets to the needs of the times (Anwar et al., 2024).
- **Administrative and Bureaucratic Challenges:** Complex administrative and bureaucratic processes can hinder the acceleration of changes in the status of waqf assets. Waqf managers may face difficulties in obtaining approval from the relevant authorities, which could slow down the implementation of the changes needed (Salsabila et al., 2023).
- **Lack of Transparency and Accountability:** Transparency and accountability in the management of waqf are often still a problem. Without strict supervision and a good reporting system, changes in the status of waqf assets can pose a risk of abuse and injustice (Shobron et al., 2017).
- **Limited Resources and Capacity:** Waqf managers may face limited resources and capacity in managing changes in the status of waqf assets. The lack of skilled human resources and adequate funds can be the main obstacles in the process of changing and optimizing the benefits of waqf (Rochanah et al., 2024).
- **Resistance from the Community:** Resistance from the community to changes in the status of waqf assets, especially if the change is considered incompatible with the original purpose of the waqf or does not provide clear direct benefits, can be a major challenge for waqf managers (Apriantoro et al., 2023).

Overcoming these gaps and problems requires a holistic approach, including increased education and socialization, supportive regulatory updates, simplification of administrative processes, increased transparency and accountability, and capacity building for waqf managers (Huzaery et al., 2024).

For this reason, the background of the problem regarding the practice of changing the status of the exchange of waqf assets in the view of Sharia socio-economics is a problem that arises due to the dynamics of modernization and social changes that occur in Muslim society. Waqf, as one of the Islamic social economic institutions that have an important role in reducing social inequality and strengthening the welfare of the people, often faces challenges in the form of practices that change the original essence or status of waqf assets (Nurrohim et al., 2024).

This phenomenon occurs due to ambiguous interpretations of Islamic laws and principles in the economic context, as well as due to external factors such as globalization and social change. The practice of changing the exchange status of waqf assets can be in the form of a transfer of ownership, use that is not by the purpose of the original waqf, or separation between the principles of togetherness and social solidarity that are the basis of the waqf itself (Kuncoro et al., 2021). This has a significant impact on the Islamic social economy. First, changing the exchange status of waqf assets can reduce the social and economic benefits that should be obtained by the community through this waqf asset. For example, the transfer of waqf land for commercial purposes goes against the principle of utilization that benefits the general public. Second, this can undermine the trust and integrity of the waqf system in the community, which in turn can reduce participation and support for waqf institutions (Muthoifin et al., 2024).

Therefore, a clear understanding and consistent implementation of Islamic social economic principles, particularly about waqf assets, is essential. Protection of the original status and purpose of waqf, as well as the enforcement of effective monitoring and regulatory mechanisms against practices that undermine the essence of waqf, can help ensure that waqf remains an effective instrument in building community welfare and realizing the principle of social justice in an Islamic perspective (Achour et al., 2024).

In the view of the Islamic social economy, eternal investment is waqf because the rewards reaped from waqf worship not only flow when life after death even the rewards from waqf continue to flow. In addition, waqf has also played an important role in the development of Muslim society throughout the history of Islamic development. Waqf also helps a lot in the world of education, from here actually waqf can be a poverty solver in Indonesia. Waqf has also carried out some of its special duties in government institutions. Not a few books are written or translated and funded by waqf so building a community from the spirit of reading and knowledge can be achieved through waqf (Rhezaldi et al., 2024).

In Indonesia itself, the rules regarding wakafan have been regulated in PP No. 28 of 1977 concerning wakafan-owned land. This regulation seeks to make waqf land free from all bonds, confiscations, and disputes and can also guarantee the permanence of its functions and benefits so that it is in harmony with the objectives of wākif. However, with the development of the times, and the increasingly urgent economic needs, now there are many waqf disputes, namely claims over goods entrusted by the heirs of the person who endowed (Emmanuel et al., 2023).

The emergence of this lawsuit is due to the large number of endowments that are only based on mutual trust and are not supported by administrative order. In addition to the problem of waqf land disputes, there are also problems in the community, namely problems when property or waqf land experiences exchange or replacement. In Article 225 paragraph (2) of the KHI, it is stated that changes to waqf objects can occur if they obtain written approval from the Head of the Sub-District KUA based on advice from the Sub-District Ulema Council and local sub-districts with a note that they are no longer by the purpose of the waqf as pledged by the wākif, and because of public interest (Wiranto, et al., 2024). The question of changing the exchange status of waqf property in terms of jurisprudence is called *istibdāl* and in positive law is called *ruislag*. *Al-Istibdāl* has the meaning of replacing waqf goods with other waqf goods, whether they are of the same use or not, such as exchanging waqf in the form of agricultural land with other goods in the form of land for buildings (Jaafar et al., 2024).

In Islamic law changes in the status of waqf are not allowed, unless the waqf cannot be re-utilized by the purpose of the waqf, then changes can be made to the waqf concerned. Islamic scholars/jurists do vary in opinion, about whether or not it is permissible to change the status of waqf objects, such as selling, changing the form/nature, moving to another place, or exchanging with other objects. In Islamic society, especially Indonesia, there are often polemics or differences of opinion about the teachings of waqf itself. The understanding of the community is indeed more because it is influenced by some views of imams of the madhab, such as Imam Malik and Shafi'i who emphasize the importance of the permanence of waqf objects, even though they have been damaged. Unlike the case with Hanafi imams and Hanbali imams who allow changes to the status of waqf objects (A.N. et al., 2024).

One example of the problem of exchanging waqf land taken by the author is at At-Taqwa Mosque, Jetak Hamlet, Wonorejo Village, Gondangrejo District, Karanganyar Regency. The problem began when there was a construction project for the Solo-Kertosono Toll Road where the toll road construction route passed through the At-Taqwa mosque. The transfer of the At-Taqwa mosque was carried out by changing the exchange status of waqf property. Originally this mosque was located on the Solo-Purwodadi Road since the project this mosque changed its location in the middle of the village. Changes to the exchange status of waqf property are not allowed, because waqf land for the benefit of mosques is in the interest of the community even though status changes can be made (Hermawan, 2022; Suciyani, 2022).

Based on the brief explanation above, the author is interested in raising a discussion about "Review of Islamic Law on Changes in Exchange Status of Waqf Property (Case Study of At-Taqwa Mosque, Jetak Hamlet, Wonorejo, Gondangrejo District, Karanganyar Regency)" (Hamidu et al., 2024).

Literature Review

The practice of changing the exchange status of waqf property is an important topic in Islamic social economic studies. In the existing literature, this practice is often the subject of complex and deep debate. According to some studies, an understanding of this concept can provide deep insight into how the principles of Islamic economics are applied in real practice (Sholeh et al., 2023).

Some authors commented that in the view of the Islamic social economy, the concept of exchanging waqf assets that were developed effectively can be an important instrument to strengthen the economic empowerment of the Ummah. Through this practice, waqf assets that were initially unproductive can be converted into income-generating assets. This not only provides economic benefits for the community but also improves overall social welfare (Sweta et al., 2022).

However, some viewpoints criticize the practice of changing the exchange status of waqf property, especially if it is done without regard to the ethical and social justice principles underlying Islamic economics. Several studies highlight that in some cases, this practice can lead to misuse or transfer of waqf property from its original purpose, which should be for the public good, into an instrument for the benefit of a particular individual or group (Herviana et al., 2023).

In addition, the literature also highlights the need for strict regulation and supervision to ensure that the practice of changing the exchange status of waqf assets is carried out transparently and by sharia principles. This approach is needed to prevent the misuse, manipulation, or exploitation of waqf assets that can harm society as a whole (Khan et al., 2023).

Overall, this literature review shows that the practice of changing the exchange status of waqf property is a complex subject in the context of the Islamic social economy. While it can provide significant economic benefits, it is important to pay attention to the principles of ethics, and social justice, and the need for effective regulation and supervision for this practice to contribute positively to the well-being of people and society as a whole (Geraldine et al., 2024).

Research Methods

The type of research used by the author is qualitative, namely using case studies and descriptive, the author examines a case that is in the community using interviews, observations, or documentary studies of residents or managers of research sites which are then analyzed and produced a research (Aderibigbe et al., 2018).

The data collection method used by the author is using interview (interview) and observation (observation). The method of collection by way of interviews is that the author is looking for information or problems to be studied, the source of data is the takmir of the mosque at taqwa. Interview activities in this study were conducted on two respondents, namely the administrator of the At-Taqwa mosque and the nadzir of the mosque. The respondents interviewed were Mr. Sholeh, Mr. Darmin, and Mr. Sadiman (Geraldine et al., 2024).

Methods of the Practice of Changing the Status of Waqf Assets in the Socio-Economic View of Islam

Research Components	Explanation
Research Title	The Practice of Changing the Status of Waqf Assets in an Islamic Socio-Economic View
Research Objectives	Analyzing the practice of changing the status of waqf assets from an Islamic socio-economic perspective
Research Approach	Qualitative
Data Collection Methods	- Interview: In-depth with waqf managers, scholars, and Islamic economists. - Observation: Observing the practice of changing the status of waqf assets in the field.

Research Components	Explanation
	- Document Study: Examining literature, regulations, and fatwas related to waqf.
Population and Sample	Population: Waqf managers, scholars, and Islamic economists. Sample: Selected purposively based on certain criteria such as experience and knowledge of waqf.
Data Analysis Techniques	Content Analysis: Uses content analysis techniques to identify themes and patterns in the collected data.
Research Location	Areas with diverse waqf practices, for example, several cities in Indonesia.
Research Instruments	Interview Guide, Observation Checklist, and Document Data Collection Form.
Data Validity	Source Triangulation: Using various data sources to ensure the validity and accuracy of the data.
Research Limitations	Focus on specific regions only, so it may not be generalized to the entire region.
Research Implications	Provide recommendations for better waqf management policies from an Islamic socio-economic perspective.

Results and Discussion

Allah Almighty has obligated that his servants who have property more than basic needs, both for themselves and their families, are encouraged to spend some of their property to be given to people who are in need, weak, poor, and who have various other social problems. Waqf is a means of worship that is also a solution to these social problems. According to the data collected by waqf contained in data in the Ministry of Religious Affairs of the Republic of Indonesia until September 2002 shows that waqf land in Indonesia as many as 362,471 locations with an area of 1,538,198,586 M2.75% of which have been certified. In this case, it can be seen that waqf assets in Indonesia have not been well coordinated and are still mostly centred on agencies that manage waqf independently. This data proves that with waqf people can optimize the function of the waqf, such as for the world of education, economics, and for community empowerment activities through other fields (Alam et al., 2021).

Waqf is a type of gift whose implementation is carried out by withholding (ownership) of the original (tahbisul ashli), then making the benefits generally applicable. That is to hold the goods entrusted so that they are not rented, bequeathed, and mortgaged to others, the definition of "how to use them" is to use by the will of the wakif without remuneration.

Waqf problems arise not only when heirs ask for waqf land that has been waqf, but also when there is an exchange of property or waqf land. About this according to the positive law Article 22 of Law No. 41 of 2004 concerning waqf. The regulation has explained in detail the permissibility of exchanging waqf property and how technical it is (Afiyah & Macsudov, 2024).

According to some madhhab opinions on the issue of the exchange of waqf property bolsters in the Shafi'i school is very strict, in the sense that the Shafi'i school is very careful in giving the validity of the exchange of waqf land rolls. Imam Shafi'i said that waqf objects should not be exchanged and sold under any circumstances because this school refers to the above hadith. Some jurists in the Shafi'iyah school argue that they forbid the replacement of waqf. Although there are a thousand and one reasons that claim for it, they only allow waqf recipients to use specific waqf until it runs out if there is a claim (Ilmiah et al., 2019). Thus, according to Imam Shafi'i, the property that has been entrusted cannot and strictly forbids the exchange of waqf land. The conversion of waqf land will pave the way for the abolition of the purpose of waqf. The opinion of the Shafi'i school is guided by the hadith of the Prophet (peace be upon him) which means Musaddad conveyed to us from Yazid ibn Zurai', from Ibn Aun, from Nafi' that Ibn Umar (ra) said:

"That 'Umar(ra) obtained a piece of land in Khaibar, then he went to the Prophet (peace be upon him) to ask for instructions. ' Umar said: "O Messenger of Allah I got a piece of land in Khaibar, I have never had such a good property, so what do you command me?" The Prophet said: "If you like, you hold (the principal) of the land, and you give alms (the result)". Then 'Umar shadaqahkan (his land to be managed), not sold, not granted, nor inherited (Achour et al., 2024).

Based on the above opinion, in the case of changes in the allocation of waqf land, At-Taqwa Mosque, Jetak Hamlet, Wonorejo Village, Gondangrejo District, Karanganyar Regency. The hadith became a guideline for the Shafi'iyah group, that waqf is an act of tabarru' to donate part of the wealth. In addition, the scholars agreed (ijma') to accept waqf as a jariyah charity prescribed in Islam. According to the Shafi'i School referring to the hadith above waqf is eternal and the ownership of waqf has changed status, that is, the ownership of Allah is no longer the ownership of the waqf of the person who entrusts the waqf object. In terms of positive law, PP Number 25 of 2018 concerning the implementation of Law Number 41 of 2004 concerning Waqf, changes in the status of Waqf property in the form of exchange are prohibited except with written permission from the Minister based on BWI approval. Meanwhile, in the Indonesian Waqf Board Regulation number 3 of 2012 concerning changes in the allocation of waqf property, this is about the ruislahg of the At-Taqwa mosque with the Solo-Kertosono Toll Road Project by the regulation, because in that case, Nadhir has obtained written permission from the Indonesian Waqf Board. From the above opinion, according to the author, this change is permissible because it brings benefits to waqf property and does not contradict shari'a (Maisu et al., 2023).

No.	Problem	Conditions	Solution
1.	The existence of waqf land that is used as TPQ without a waqf certificate or has not been registered.	By PP No. 42 of 2004 verse 3 (a) the successor of the property of the exchanger possesses a certificate or proof of legal ownership by the rules of law.	In addition to this regulation, the mosque takmir consulted with related parties to buy certified land for inheritance, which then proceeded to be wakafan for the construction of a new mosque.
2.	The price value of waqf land is priced cheaper so it is difficult to find a replacement.	Following PP No. 42 of 2004 article 49 verse 3 (b), the value of the converter's property is higher or more valuable and balanced with the property of the waqf.	There are additional funds released from the developer, namely CSR funds so that the process of exchanging the waqf property of the At-Taqwa mosque can run (Alam et al., 2021).

From an Islamic socio-economic perspective, changes in the status of waqf assets have significant implications. Waqf, which has traditionally been seen as an instrument for social welfare, requires adaptation to the context of the times to remain relevant and effective. Changes in the status of waqf assets are often needed to optimize their benefits for the community. For example, the transformation of less productive waqf land into a profitable commercial asset can generate greater income to be used in social, educational, and health programs. However, this change must be made while maintaining the basic principles of waqf, namely the public interest and sustainability of benefits (Abdullah et al., 2023).

From a socio-economic perspective, this change can increase the efficiency and usability of waqf assets, providing a greater positive impact on beneficiaries. On the other hand, the main challenge in this practice is to ensure that the changes are following sharia and do not reduce the essence of waqf as an asset intended for social good. This discussion shows that with proper management, changes in the status of waqf assets

can be a more dynamic tool in overcoming social and economic issues in modern society (Fauzin & Affandi, 2023).

The Recommendations in This Study Are

Although in a society there is a good opinion for all circles of society, in achieving benefits, it must pay attention to the laws and regulations and opinions of the jurists and community leaders. In the issue of waqf, all forms of disputes included in the Law must be carried out following procedures and not only verbal reprimands.

Conclusion

Based on the discussion in the previous chapters, the author will draw the following conclusions: (1) Practice of Changing the allocation of waqf land At-Taqwa Mosque, Jetak Hamlet, Wonorejo Village, Gondangrejo District, which was originally a waqf land in the form of a mosque, has now changed to a toll road. According to the author, this change in designation is carried out for the benefit, and the substance of the change in designation is by the provisions of Law No. 41 of 2004 article 23 paragraph 1 (the determination of the allocation of waqf property as referred to in article 22 is carried out by the wakif on the implementation of the waqf pledge). In addition, the process of changing the allocation of waqf land is not by Government Regulation Number 28 of 1977 Article 11 paragraph 1 related to Changes in Land Ownership Waqf. (2) According to the Islamic law review of the Change of Land Allocation of Masjid At-Taqwa waqf into a toll road from the Hambali School said that the change in the allocation and status of this waqf land is not allowed unless the waqf property can no longer be useful. Meanwhile, among the Shafi'iyah and Maliki Schools, it is forbidden to replace and exchange waqf objects under any circumstances. Meanwhile, from the perspective of the Hanafi school of change is still within the power of the wakif and this policy focuses on the benefits that accompany its practice. And if at the time of the pledge, there is mention that it can be changed or changed, then the exchange can be made. This permissibility stems from the tolerance and discretion that is highly upheld by adherents of the Hanafi school.

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